



1

2. Uche O. Asonye has billed at an hourly rate of \$200.00 and has regularly charged and received that rate from clients in connection with representation in front of administrative agencies, including the Illinois Human Rights Commission.

3. The amount of \$200.00 per hour for Uche O. Asonye for the work performed in this matter is adequately supported and reasonable.

4. The rate of \$90.00 per hour for work performed by attorney's paralegal, requested by Complainant, is adequately supported and reasonable.

5. The rate of \$75.00 per hour for work performed by attorney's law clerk, requested by Complainant, is adequately supported and reasonable.

6. Some of the requested costs for work performed by attorney's paralegal and law clerk are not compensable. The uncompensable costs total \$163.75.

7. The requested costs by Complainant in the amount of \$492.72 is not compensable.

8. A reduction of \$656.47 for attorneys' fees is appropriate. Complainant is entitled to the amount of \$31,090.12 for attorneys' fees.

Conclusions of Law

1. A prevailing Complainant is entitled to reasonable attorney fees and necessary costs incurred to litigate this matter.

2. The party seeking attorneys' fees is required to provide evidence regarding the number of hours expended and the hourly rates, and Complainant has sufficiently done so.

3. A reduction in attorneys' fees due to uncompensable items charged by Complainant's attorney is justified.

Determination

Complainant Regina Kimbrough is entitled to an award of \$31,090.12 in attorneys' fees for the services of Attorney Uche O. Asonye, his paralegal and law clerk. Complainant is not entitled to costs associated with uncompensable items, which are considered overhead.

Discussion

After a finding of liability against the Respondents, the Complainant is entitled to reasonable attorneys' fees and costs incurred in litigating the matter. 775 ILCS 5/8A-104(G). The purpose of the fee award is to provide an effective means of access to the

judicial process to victims of civil rights violations who might not otherwise have the means to retain counsel. Clark and Champaign National Bank, Ill. HRC Rep. 193 (1982). In Clark, the Commission set forth guidelines to be considered in awarding attorneys' fees. Although the provision of the Act awarding attorneys' fees should be accorded liberal construction, the purpose of such awards is not to provide a windfall for prevailing attorneys. York and Al-Par Liquors, Ill. HRC Rep. (1986CF0627), June 29, 1995. The burden of proof for requesting attorneys' fees rests with the Complainant.

When considering a fee petition, it is first necessary to establish a reasonable hourly rate. An appropriate hourly rate is generally dependent upon the actual hourly rate the attorney charges, the experience of the attorney and previous awards of attorneys' fees to counsel. Clark and Champaign National Bank, *supra*.

Attorney Uche O. Asonye is requesting an hourly rate of \$200.00 an hour for his work in this matter. Mr. Asonye states in his affidavit that this is the rate that he regularly charges and receives from clients in connection with representation in front of administrative agencies, including the Illinois Human Rights Commission. Mr. Asonye further states that the rates charged by his firm are equal to or less than those of similar law firms and lawyers with similar backgrounds, qualifications and experience. Respondent argues that the requested hour rate is unreasonably high and requires a rate reduction. Respondent contends that Mr. Asonye did not offer any support for the rate sought and that the rate is inconsistent with similarly experienced attorneys in this forum.

Uche O. Asonye, as an officer of this tribunal and in his capacity as an attorney at law, has submitted an affidavit representing to the Commission that his hourly rate is \$200.00. Facts unrebutted in an affidavit are taken as true. Purtill v. Hess, 111 Ill. 2d 229, 240-41, 489 N.E.2d 867, 95 Ill. Dec. 305 (1986). In this case, Respondent has not presented any evidence to the contrary by way of affidavit or documentation to counter Mr. Asonye's stated hourly rate. As indicated by Mr. Asonye's affidavit, the hourly rate of \$200.00 is within the parameters of awards granted to attorneys with similar backgrounds, qualifications and experience who practice in front of the Commission. Therefore, I find that the requested amount of \$200.00 per hour to be reasonable. I also find that the time entries submitted by Mr. Asonye are not vague, and that his request for attorneys' fees is adequately supported by documentation.

As Respondent notes, there are entries that seem to indicate that clerical work is being billed. Attorneys cannot be compensated for performing basic clerical tasks. Altes and Illinois Dep't of Employment Security, 50 Ill. HRC Rep. 3 (1989). The following items in Mr. Asonye's billing statement are considered clerical and will be reduced from the award:

02/12/2002	PL	\$22.50
02/21/2002	LC	\$43.75
04/12/2002	LC	\$18.75
10/21/2002	PL	\$22.50.

In addition, the entry for 11/20/2001, for the cost of attorney's law clerk observing the trial, charged at \$56.25, will not be covered since this is not related to work performed in furtherance of this action.

As to the requested costs, it is clear from the record that the requested amount of \$492.72 should be denied. The motion requests reimbursement for expenses related to copying, faxing, postage, petty cash and case filing. However, there is no indication that the copies or faxes were made by someone outside counsel's office or that such costs are routinely billed to counsel's clients. Such matters are generally considered part of a law firm's overhead. Kaiser v. MEPC American Properties, Inc., 164 Ill.App.3d 978, 518 N.E.2d 424 (1st Dist. 1987). The telephone calls and postage are also considered part of a firm's overhead. Kaiser, supra. As to the petty cash and filing expenses, there was no basis presented by Complainant as to how these figures were derived. The Commission does not charge any filing fees and I cannot begin to attempt to comprehend what if anything is meant by "petty cash." Therefore, I find that Complainant is not entitled to the requested amount of \$492.72.

Given the figures and matters discussed above, \$163.75 is to be deducted from the time entries for the paralegal and law clerk, and \$492.72 is to be deducted from the costs request. The total to be deducted is \$656.47. The original amount of \$31,746.59 requested by Complainant's attorney is thereby reduced to \$31,090.12.

Recommendation

Based upon the foregoing, it is recommended that the Commission order that:

- A. Respondent pay Complainant \$31,090.12 for attorneys' fees for Attorney Uche O. Asonye, which includes the cost for his paralegal and law clerk;
- B. Complainant is not entitled to any award for costs;
- C. Complainant receive all other relief recommended in the Recommended Liability Determination.

HUMAN RIGHTS COMMISSION

BY:

NELSON E. PEREZ
Administrative Law Judge
Administrative Law Section

ENTERED: January 9, 2003